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10/820,567	04/07/2004	Robert O'Farrell	026276-000210US	8559

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EXAMINER

KIM, PAUL

ART UNIT	PAPER NUMBER
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/820,567	Applicant(s) O'FARRELL ET AL.	
	Examiner Paul Kim	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is responsive to the following communication: Amendment filed on 31 December 2007.
2. Claims 1-19 are pending and present for examination.

Continued Examination Under 37 CFR 1.114

3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 31 December 2007 has been entered.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. **Claims 1, 7, 12, and 18** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 7, 12, and 18 recite the method step of determining whether an update package is available "for data stored at the multiple enterprise data sources that is associated with the identified applications." The Examiner notes that said limitations fails to be supported by specification as present claimed.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-2, 4-10, 12-13, 15-17, and 18-19** are rejected under 35 U.S.C. 102(e) as being anticipated by Criss et al (U.S. Patent No. 6,968,184, hereinafter referred to as CRISS), filed on 18 August 2003, and issued on 22 November 2005.

8. **As per independent claims 1, 7, 12, and 18**, CRISS teaches:

A method of change management for a mobile data system having a mobile client device that shares data with multiple enterprise data sources, the method comprising:

Initiating change management processing response to receiving a communication request from the mobile client device to establish communications with a server of the mobile data system {See CRISS, C17:L31-45, wherein this reads over "the processor 40 transmits a request packet to the host computer 30 requesting that the host computer 30 transmit a list of package names corresponding to the package definition files"}, wherein the communication request includes data that identifies one or more applications installed at the mobile client device {See CRISS, C2:L60-C3:L1, wherein this reads over "the mobile device wirelessly transmits to the host computer the indicia identifying the version of its operating software" and "[t]he host computer performs a comparison of the version indicia provided from the mobile device with information identifying the version of corresponding operating software presently stored with an FTP or TFTP server which maintains the latest version available for each operating software"}, and to which the mobile client device is subscribed, and identifies metadata at the mobile client device associated with the one or more subscribed applications {See CRISS, C17:L39-45, wherein this reads over "the processor 40 transmits a request packet to the host computer 30 requesting that the host computer 30 transmit a list of the package names corresponding to the package definitions files stored in the memory"};

determining if an update package is available for the identified application subscribed at the client device {See CRISS, C3:L1-4, wherein this reads over "[i]f the host computer determines the mobile device is not running the latest version of the operating software, the host computer transmits a request to the mobile device to have its operating software updated"} and for data stored at the multiple enterprise data sources that is associated with the identified applications¹, based on the metadata identified by the communication request; and

¹ See 35 U.S.C. 112 rejection above.

downloading the update package to the mobile client device and updating the identified applications and associated data at the mobile client device (See CRISS, C3:L1-4, wherein this reads over "[i]f the host computer determines the mobile device is not running the latest version of the operating software, the host computer transmits a request to the mobile device to have its operating software updated").

9. **As per dependent claims 2, 10 and 13**, it would be inherent that the claimed invention include a process wherein the identified application is initially installed on the mobile client device since without such initial installation, there would be no reason for the method of change management to determine if the identification application needed updating.

10. **As per dependent claims 4 and 15**, CRISS teaches:

A method as defined in claim 1, wherein determining if an update package is available comprises:

determining a version number for the identified application installed at the mobile client device (See CRISS, C7:L36-39, wherein this reads over "just following the boot up routine, or any time thereafter, the host computer 30 requests from the mobile terminal indicia which identifies which version of operating software the mobile terminal is running");

identifying an update package for the identified application (See CRISS, C7:L62-64, wherein this reads over "[i]ncluded with each version of operating software is a unique identifier indicative of the particular version"; and C7:L67-C7:L3, wherein this reads over "the system administrator updates the host computer with sufficient information to communicate those fields provided in the package definition files"); and

installing the update package at the mobile client device to replace the previous version of the identified application (See CRISS, C3:L41-47, wherein this reads over "wirelessly updating the operating software stored in the at least one mobile device if it is determined that the operating software stored in the at least one mobile device is not the current version").

11. **As per dependent claims 5, 8 and 16**, CRISS teaches:

A method as defined in claim 4, wherein determining a version number comprises receiving data from the mobile client in a predetermined format for the identified application and determining the version number in accordance with the data format (See CRISS, Figures 5a-5d).

12. **As per dependent claims 6, 9 and 17**, CRISS teaches:

A method as defined in claim 1, wherein the communication request identifies all installed applications at the mobile client device (See CRISS, C2:L55-60, wherein this reads over "a host computer coupled to the backbone queries the mobile device for indicia identifying the version of operating software stored in the mobile device").

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. **Claims 3, 11, 14, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over CRISS in view of Official Notice.

15. **As per dependent claims 3, 11, 14, and 19** CRISS, in view of Official Notice, discloses:

A method as defined in claim 2, wherein the subscription process comprises:

identifying a user at the mobile client device {See CRISS, C5:L55-60, wherein this reads over "a host coupled to the backbone queries the mobile device for indicia identifying the version of operating software stored in the mobile device"};

downloading a Client Framework to the mobile client device {See CRISS, C3:L4-8, wherein this reads over "the mobile device communicates . . . to have the latest versions of software downloaded"}; and

receiving data comprising at least one from the group of Metadata, Customer Data Definition, Customer Business Data, and runtime files for the identified application, wherein the received data is overwritten to any prior corresponding application files previously installed at the mobile client device {See Official Notice below}.

The Examiner takes Official Notice that It would have been obvious and widely-known to one ordinary skill in the art at the time the invention was made to overwrite the prior corresponding application files (e.g. metadata, Customer Data Definition, Customer Business Data, and runtime files for the identified application) since upon update of the identified application, one would not want to lose, by deletion and overwrite, but maintain the accumulated files corresponding to the application.

Response to Arguments

16. Applicant's arguments filed 31 December 2007 have been fully considered but they are not persuasive.

a. Rejections under 35 U.S.C. 102

Applicant asserts the argument that Criss fails to disclose "communication requests from the mobile [client device] to the server initiated by the mobile client device to request establishment of communication." See Amendment, page 10. The Examiner respectfully disagrees. Applicant is directed to col. 17, lines 31-45 of Criss which reads over "the processor 40 transmits a request packet to the host computer 30 requesting that the host computer 30 transmit a list of package names corresponding to the package definition files." Accordingly, one of ordinary skill in the art would have been able to determine that the transmission of the request packet to the host computer would readily read upon the claim limitation as recited.

Secondly, Applicant asserts the argument that Criss fails to disclose the identification of "metadata at the client that is associated with applications to which the mobile is subscribed." See Amendment, page 10. The Examiner respectfully disagrees. The Examiner notes that Criss discloses a system wherein "included with each version of operating software is a unique identifier indicative of the particular version." See Criss, col. 7, lines 59-67. Furthermore, it is noted that Criss discloses a system wherein version information of the mobile terminal operating software is stored such that said version number is used to determine whether the host computer contains more current versions of the operating software. See Criss, col. 8, line 62 - col. 9, line 7. Accordingly, one of ordinary skill in the art would have been able to determine that the version number of the operating software (i.e. metadata) is used to identify the operating software (i.e. the application) to which the mobile client device is subscribed.

Thirdly, Applicant asserts the argument that Criss fails to disclose the determination of an update package "for the subscribed applications and for data stored at enterprise data sources associated with the applications, based on the metadata." See Amendment, page 11. The Examiner respectfully disagrees. The Examiner notes that the invention of Criss is directed to a subscription system for wireless software upgrades with version control. Specifically, wherein

Criss discloses a system which downloads operating software automatically from the FTP server when more current versions of the operating software are available, one of ordinary skill in the art would have been able to determine that said disclosure would appropriately read upon determining whether an update package is available for the subscribed applications.

Furthermore, regarding Applicant's recitation of making a determination of an update package "for data stored at enterprise data sources," it is noted that said limitation constitutes new matter which has not been sufficiently described in the specification of the present invention. Accordingly, no prior art has been applied.

Lastly, Applicant asserts the argument that Criss fails to update applications based on metadata identified in the request from the mobile client device. See Amendment, page 11. The Examiner respectfully disagrees. Wherein Criss discloses the update of an operating software (i.e. an application) through the transmission of version numbers of the operating software (i.e. the metadata), one of ordinary skill in the art would have been able to readily determine that said disclosure indeed reads upon the claim limitation as recited.

Accordingly, for the reasons stated above, the rejections under 35 U.S.C. 102 are sustained.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is (571) 272-2737. The examiner can normally be reached on M-F, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Paul Kim
Patent Examiner, Art Unit 2161
TECH Center 2100

A handwritten signature in black ink, appearing to read "Etienne Leroux". The signature is fluid and cursive, with the first name "Etienne" written in a larger, more prominent script than the last name "Leroux".

ETIENNE LEROUX
PRIMARY EXAMINER